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CABINET FOR HEALTH AND FAMILY SERVICES

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JAMES W. HOLSINGER, JR., M.D. SECRETARY

April 20, 2004

Acquired Brain Injury (ABI)
Provider Letter # A-7

Dear Acquired Brain Injury Waiver Provider:

The Cabinet for Health and Family Services has filed the regulation 907 KAR 3:090 as an ordinary regulation which became effective on March 18, 2004.

The material that was previously in the manual has been incorporated into the regulation. The following changes have been made to the regulation:

Section 1, Definitions:

- ABI Provider
- ABI Recipient
- Assessment of Needs and Plan of Care
- Behavior Intervention Committee
- BISU
- Case Manager
- DCBS
- Department
- DMH/MR
- Good Cause
- Human Rights Committee
- Interdisciplinary Team
- Medically Necessary, or Necessity
- Occupational Therapist
- Psychologist with autonomous functioning
- Qualified Mental Health Professional
- Speech Therapist
- Transition Plan

Section 2, Provider Participation:

- Requires an ABI provider to have an office within the Commonwealth of Kentucky
- Requires an ABI provider to have a governing body
- Prohibits hiring recipient's family members to provide services to recipient
- Requires the ABI provider to have and follow written criteria that complies with this administrative regulation for determining the eligibility of an individual for admission to services
- Requires a confidentiality agreement between an ABI case management provider with whom they share the assessment of needs and plan of care
- Requires information regarding satisfaction of an ABI recipient, the utilization of that information, and a quality improvement program
- Identifies the requirements of the ABI provider if they are responsible for the management of ABI recipient funds
- Requires the ABI provider to have a written statement of its mission and values
- Requires the ABI provider to have written policy and procedures for communication and interaction with a family and legal representative of an ABI recipient and indicates the minimum requirements for those policies and procedures
- Requires the ABI provider to ensure the rights of an ABI recipient and indicates the rights to be ensured
- Establishes membership of the Behavior Intervention Committee and the Human Rights Committee
- Requires the ABI provider to maintain fiscal and service records and incident reports for a minimum of six (6) years from the date that a covered service is provided
- Requires providers to make records and reports available to the recipient's case manager
- Specifies provider requirements for the records of each ABI recipient served, including the maintenance of the records
- Includes the Transition Plan from the manual
- Requires an assessment summary relevant to the service area to be included in the recipient record
- Specifies minimum requirements for Crisis Plans
- Requires a tuberculosis test for each direct staff member prior to independent functioning and annually thereafter, (was not required annually before)
- Requires the ABI provider to obtain for each potential employee a criminal records check from the Administrative Office of the Courts, (State Police records check has been eliminated)
- Requires a records check to be performed prior to employment
- Requires a records check to be performed prior to placement as a volunteer performing direct care or a supervisory function
- Prohibits an ABI provider from employing an individual who has a conviction of Driving Under the Influence (DUI) during the past year to transport an ABI recipient
- Prohibits an ABI provider from employing an individual who has a substantiated fraud, abuse or neglect allegation

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- Requires an ABI provider to evaluate the performance of each employee upon completion of the agency's designated probationary period and at a minimum of annually thereafter
- Requires direct contact staff to be eighteen (18) years or older
- Requires an ABI provider to establish written guidelines that address the health, safety and welfare of an ABI recipient including a requirement that no firearms and ammunition be located at a provider service site
- Requires an ABI provider to have policy and procedures for ongoing monitoring of medication administration
- Requires the ABI provider to provide orientation for each new employee, which shall include the mission, goals, organization, and policy of the agency
- Requires the ABI provider to arrange for, or to provide, training of each employee and to document the training of each employee
- Requires each employee to complete training consistent with an ABI approved curriculum by DMH/MR which is to include identifying and preventing abuse, neglect and exploitation prior to working independently with an ABI recipient
- Requires an individual to meet the requirements and receive training which includes identifying and preventing abuse, neglect, and exploitation prior to volunteering

Section 3, ABI Recipient Eligibility, Enrollment and Termination:

- Identifies the procedures for placement on the ABI waiting list
- Identifies the procedures for involuntary termination and loss of an ABI waiver program placement

Section 4, Covered Services:

Case Management

- Defines what case management services will entail, including the monitoring of the effectiveness of service
- Defines requirements of the case managers when conducting face-to-face meetings with ABI recipients including a requirement for monitoring at the service site and a requirement for documentation of health, welfare, and safety of the recipient
- Two (2) face-to-face visits to occur at a service site within a calendar month and one (1) visit quarterly at the recipients residence
- Specifies what is required in the case manager's staff note

Behavior Programming

 Requires an evaluation of the impact of the ABI on the cognition and behavior of the recipient

Community Residential Services

- Requires a Staffed Residence to not have more than three (3) recipients
- Allows for the use of a modular home for CRS
- Allows the CRS provider to include assistance with ambulating, eating, toileting social skills training, instruction in leisure skills, and instruction in self medication

Counseling Services

- Allows the ABI counseling services to include, substance abuse or chemical dependency treatment, building and maintaining healthy relationships, development of social skills to cope with and adjust to the brain injury, increase knowledge and awareness of the effects of ABI
- Allows for the use of Group Therapy

Occupational Therapy Services

 Requires OT services to be physician ordered for evaluation and specific amount and duration (physician order was not previously required)

Speech, Language and Hearing Services

 Requires Speech services to be physician ordered for evaluation and specific amount and duration (physician order was not previously required)

Specialized Equipment and Supplies

- Requires a doctor's prescription and 3 estimates for vision and hearing services
- Requires that it not be necessary for life support

Section 6, Incident Reporting Process:

Changes the reporting requirements of Incident Reports to immediate reporting to DCBS upon discovery if involving suspected abuse, neglect, or exploitation

Section 7, ABI Waiting List

- Establishes the ABI Waiting List policy and procedures
- Eliminates the requirement that BISU staff make personal contact with those applying for emergency status during the first year of implementation of the waiting list

New and Revised Forms:

"The Acquired Brain Injury Services Manual", "September 2001 edition, policy in the body of the ABI Manual has been incorporated from the manual into the administrative regulation.

- (1) The "MAP-011, ABI Assessment of Needs and Plan of Care, May 2003" edition, is a new form used by case managers for making an assessment for level of care determination and to identify services needed by the ABI recipient. This form is ten (10) pages.
- (2) The "MAP-24B, Acquired Brain Injury (ABI) Recipient's Admission or Discharge Department for Community Based Services (DCBS) Notification, May 2003, edition", is a form used by the case manager and Mental Health/Mental Retardation for notification to DCBS upon the ABI recipient's discharge or admission from the ABI program. This form is being revised for formatting changes. This form is two (2) pages.
- Program Certification Form, January, 2000 edition", is being revised to add subparts III, IV to this form. Subpart I of this form is used by the Department for recovery of Medicaid monies from the ABI recipient estate. Subpart II of this form is used to certify that the ABI recipient's legal guardian has been informed of HCBS as an alternative to institutionalization. Subpart III is used to certify recipient's freedom to choose an ABI provider. Subpart IV is to certify the availability of resource assessments provided by the Department for Community Based Services to assist ABI recipient in financial planning. This form is two (2) pages.
- (4) The "MAP-4096, Acquired Brain Injury Waiver Services Program Memorandum of Understanding, May 2003 edition", is a form that is used by the ABI providers and recipients for agreement of services provided. This form is two (2) pages. This form is being revised for formatting changes.
- (5) The "MAP-4097, The Acquired Brain Injury (ABI) Plan of Care, January 1999 edition", is being deleted from the material incorporated by reference and will be combined with the MAP-011 form. This form is five (5) pages.
- (6) The "MAP-4098, Acquired Brain Injury Plan of Care Modification, May 2003 edition", is a form used by the case manager for requesting changes to the ABI recipient's plan of care. This form is one (1) page. This form is being revised for formatting changes.
- (7) The "MAP-4099, Acquired Brain Injury (ABI) Waiver Services Program Physician Certification, May 2003 edition" is a form used by a physician for making a

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- recommendation for an individual for acquired brain injury services. This form is one (1) page. This form is being revised for formatting changes.
- (8) The "MAP-4102, Freedom of Choice of Home and Community Based Waiver Service Providers, May 2002 edition", is a form used by the ABI recipient for choosing a provider of their choice. This form is one (1) page. This form is being revised for formatting changes.
- (9) The "Incident Report, May 2003 edition", is being revised to include more detailed questions when reporting incidents and expand incident code categories. This form is used by the ABI provider for reporting incidents. This form is four (4) pages.

We appreciate your participation in the Medicaid Program and the services you provide. If you have any questions regarding this letter, please contact Sheila Davis, Department for Medicaid, Division of Mental Health/Mental Retardation at (502) 564-5198.

Sincerely,

Russ Fendley Commissioner

RF:DH:sad